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JUL 15 2008

**OFFICE OF PETITIONS**

In re Application of  
Stevenson, et al  
Application No. 10/709,578  
Filed: May 14, 2004  
Attorney Docket No. **47399-0037**

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 24, 2007, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior -filed non-provisional applications set forth in the amendment and Application Data Sheet (ADS) filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C 119(e) for the benefit of priority of the prior-filed provisional applications set forth in the amendment and ADS filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **GRANTED**.

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**

**TREATMENT UNDER 37 CFR 1.78(a)(3)**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

1. the reference required by 35 U.S.C § 120 and 37 CFR § 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
2. the surcharge set forth in § 1.17(t), and
3. a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending application was filed on May 14, 2004, and was pending at the time of the filing of the instant petition. A reference to the prior-filed non-provisional applications has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(2)(iii) and in an ADS.

The instant non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant non-provisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed non-provisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

**TREATMENT UNDER 37 CFR 1.78(a)(6)**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted.
2. the surcharge set forth in 1.17(t), and
3. a statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

The instant pending application was filed on May 14, 2004, and was pending at the time of the filing of the instant petition. A reference to the prior-filed provisional applications has been included in an amendment to the first page of the specification, as required by 37 CFR 1.78(a)(5)(i) and in an ADS.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Also, the reference to the prior filed applications was submitted during the pendency of the instant non-provisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional applications satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

It should be noted the ADS filed with the petition is defective since it is not labeled "Supplemental ADS". However, the amendment to the specification filed with the petition makes the defect irrelevant.

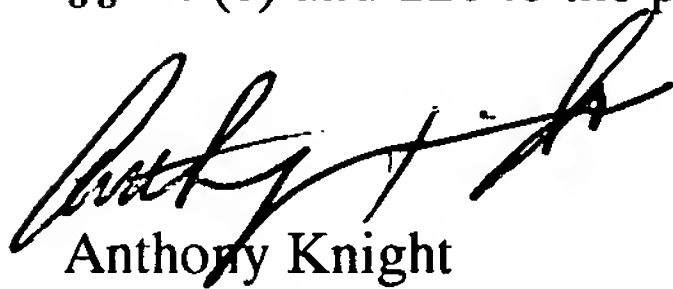
**The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision**

**on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.**

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanied this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571)272-3222.

This matter is being referred to Technology Center 1700, Art Unit 1796 for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§119(e) and 120 to the prior-filed non-provisional and provisional applications.



Anthony Knight  
Supervisor  
Office of Petitions

Enclosure: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/709,578	05/14/2004	1796	1264	47399-0037	26	4

**CONFIRMATION NO. 3577**

## CORRECTED FILING RECEIPT



\*OC000000030556588\*

24115  
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3800 EMBASSY PARKWAY  
SUITE 300  
AKRON, OH 44333-8332

Date Mailed: 06/19/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

### Applicant(s)

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### Assignment For Published Patent Application

DOVER CHEMICAL CORPORATION, Dover, OH

**Power of Attorney:** The patent practitioners associated with Customer Number 24115

### Domestic Priority data as claimed by applicant

This application is a CIP of 10/709,510 05/11/2004 PAT 7,320,764  
which is a CIP of 10/086,619 03/01/2002 PAT 6,824,711  
which claims benefit of 60/315,746 08/29/2001  
and claims benefit of 60/314,181 08/16/2001  
and claims benefit of 60/273,303 03/02/2001

### Foreign Applications

**If Required, Foreign Filing License Granted:** 07/01/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/709,578**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** Yes

**Title**

PHENOL-FREE PHOSPHITES

**Preliminary Class**

524

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER**

**Title 35, United States Code, Section 184**

**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED.**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as



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The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

#### **NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).